

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

PAUL KURLANSKY, HELAINE KURLANSKY,  
MARTIN EPSTEIN, HERBERT ENNIS, JUDITH  
ENNIS, MORDECAI APPLETON, HENRY KATZ,  
LILA KATZ, JOAN KATZ, GLENN KATZ, and  
JUDITH SINGER,

Plaintiffs,

-against-

1530 OWNERS CORP.; MOE MARSHALL,  
ELLEN GERBER, KENNETH LIPKE, CAROL  
LICHTBRAUN, JUSTIN WIMPFHEIMER,  
PATRICIA DI CONSTANZO, and MARK  
O'NEILL, Individually and as Members of the Board  
of Directors of 1530 Owners Corp., and;  
FIRSTSERVICE RESIDENTIAL,  
Defendants.

**DECLARATION OF HERBERT ENNIS PURSUANT TO 28 U.S.C. § 1746  
IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Herbert Ennis, hereby declare under penalty of perjury:

1. I am a plaintiff in the above-captioned proceeding and I am a resident of the Colony in Fort Lee, New Jersey, where I have been living with my wife, Judith Ennis, for the past six years. We reside in the Colony's North Tower in apartment 5A. I am a member of the Sabbath Elevator Committee, which advocated for the use of Sabbath mode in the service elevators. As such, I am familiar with the fact that the Colony's service elevators are equipped with a Sabbath mode that allows the elevators to be pre-programmed to stop at certain floors, obviating the need for any button pushing. The Colony's Sabbath elevator program was approved by a majority of the Colony's shareholders on May 19, 2019, but was then terminated by the Colony's board of directors. During the period of time in which the Sabbath elevator was operational, I used it weekly. I am also familiar with the Colony's longstanding practice of

assisting observant Jewish residents with the elevators on the Sabbath and certain Jewish holidays when there is no Sabbath Elevator—a service that I and my wife likewise utilized, but has now been scuttled. As such, I am familiar with the facts and circumstances set forth herein. I submit this Declaration in support of Plaintiffs’ Application for Preliminary Injunction.

2. As an observant Jew, my religious beliefs are informed by thousands of years of Jewish tradition. Part of my strongly-held religious beliefs is the primacy of *halakha*, or the Jewish legal system, which establishes a framework for my entire life. A second core element of my beliefs is *kehillah*, or community, and the importance of joining together with members of my community to pray, study, and worship, to mourn at sad times and to celebrate in times of joy.

3. A core part of my adherence to Jewish law is my observance of the Sabbath, the Jewish day of rest, which spans from Friday evening until Saturday night. On the Sabbath, and certain Jewish holidays, many observant Jews refrain from certain activities, including the use of electronic and certain mechanical devices. For example, many observant Jews, including myself, do not press elevator buttons on the Sabbath and certain Jewish holidays. Doing so would violate my sincerely held religious beliefs.

4. I am 89 years old and have advanced Parkinson’s disease. By early 2016, my condition had deteriorated to the point that I was no longer able to use the stairs. Over the course of this past year, my condition has worsened further. I use a cane, and my wife and I have ordered a wheelchair for me to use.

5. Before the Colony adopted the Sabbath mode for the new service elevators, my wife and I arranged with the building staff for assistance with the elevators when attending services at the synagogue during the Sabbath, and we would provide a monetary tip to the staff

who assisted us. The staff was always very accommodating, and we never experienced any difficulty in seeking staff assistance with the elevators. This service allowed us to come and go as we pleased during the Sabbath, and thus provided us with flexibility and dignity in fully observing the Sabbath.

6. When the Sabbath elevator program was discontinued in July 2020, we received very little notice from the building that the program was being terminated—the program was terminated on July 24, 2020, the eve of the Sabbath, via a memorandum sent to all shareholders. Later, immediately before the Jewish High Holidays, a Colony staff member notified certain residents that staff had been directed not to provide elevator assistance to observant Jewish residents on the Sabbath and other Jewish holidays. I then sent a note to Moe Marshall on September 23, 2020 objecting to the Colony's actions. That note had no effect on the Defendants' decision to discontinue the Sabbath elevator and the practice of staff assistance.

7. Due to my disability and the Colony's actions, I am largely confined to my apartment on the Sabbath. While Martin Epstein hired someone to assist observant Jewish residents with getting up and down the elevator, the window of time that he is available is too narrow for me, given my disability. It is difficult for me to get ready and I cannot guarantee I will be available at the exact moment this individual passes through. The time window that a Sabbath elevator offers is far more convenient for us than the current arrangement organized by Mr. Epstein, which essentially imposes a set time. If the Sabbath elevator was in operation, I could come out to the hall when I am ready and get on when it comes. This also impacts my wife's ability to attend synagogue because she cares for me in the mornings.

8. Apart from the lack of flexibility which makes the current arrangement inadequate, hiring an individual separately who is not an employee of the building is simply less

reliable than Colony staff assistance with the elevators. This is because there are always a large number of Colony staff members working in the building at any given time. If the non-employee that we hire to assist us fails to arrive on time, or at all, we are left without any alternative for leaving the building to attend synagogue without violating our sincerely held religious beliefs—as Sabbath observers, we do not use telephones on the Sabbath. If the building staff assisted, reliability would be less of a concern because multiple staff members would be available to assist us. Further still, if the Colony reinstated the Sabbath elevator program, reliability would be even less of a concern. With the Sabbath elevator, barring a malfunction, we would know exactly when the elevator would be travelling to us.

9. If a functional Sabbath elevator were restored, my wife and I would be able to once again attend synagogue at the time of our choosing. Also, without a Sabbath elevator, my wife and I cannot join in the company of friends and other community members, which has negatively impacted our sense of community and camaraderie.

10. I, therefore, respectfully request that this Court grant Plaintiffs' application for a preliminary injunction.

11. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 8, 2021.

  
HERBERT ENNIS